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Oceans and the law of the sea: sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments

Note verbale dated 8 June 2007 from the Permanent Missions of Australia and Indonesia to the United Nations addressed to the Secretary-General

We have the honour to inform you that the Governments of the Republic of Indonesia and Australia co-hosted the Regional Ministerial Meeting on Promoting Responsible Fishing Practices, including Combating Illegal, Unreported and Unregulated Fishing in the Region in Bali, Indonesia, from 2 to 4 May 2007. The meeting constitutes a joint initiative by Indonesia and Australia to discuss measures to address the shared problems of illegal fishing in the South-East Asian region and was attended by relevant ministers of Australia, Brunei Darussalam, Indonesia, Malaysia, Papua New Guinea, the Philippines, Singapore, Thailand, Timor-Leste and Viet Nam, and representatives of the Food and Agriculture Organization of the United Nations (FAO).

The meeting produced a joint statement (see annex), which emphasized the commitment of the ministers to a common and collaborative approach to promote responsible fishing practices and to combat illegal, unreported and unregulated fishing in the region, in particular in the South China Sea, the Sulu-Sulawesi Seas and the Arafura-Timor Seas. The ministers further agreed to take collective action to enhance and strengthen the overall level of conservation and management of fisheries so as to ensure the sustainable use of fisheries resources in the region. A comprehensive plan of action was adopted to guide the fulfilment of those objectives.

The ministers recognized the important roles of regional and multilateral organizations, including FAO, in strengthening fisheries management and conservation in the region and agreed that the continued support and participation of those organizations is important. The ministers further agreed to encourage those organizations to provide assistance to the implementation of fisheries conservation and management measures in the region.

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Annex to the note verbale dated 8 June 2007 from the Permanent Missions of Australia and Indonesia to the United Nations addressed to the Secretary-General

Joint ministerial statement

Regional Ministerial Meeting on Promoting Responsible Fishing Practices, including Combating Illegal, Unreported and Unregulated Fishing in the Region

Bali, 4 May 2007

1. Ministers and their Representatives responsible for fisheries of Australia, Brunei Darussalam, Indonesia, Malaysia, Papua New Guinea, the Philippines, Singapore, Thailand, Timor-Leste and Viet Nam, hereinafter referred to as the Ministers, met on 4 May 2007, in Bali, Indonesia. The Meeting was co-chaired by H.E. Mr. Freddy Numberi, Minister of Marine Affairs and Fisheries of Indonesia, and Senator the Hon. Eric Abetz, the Minister for Fisheries, Forestry and Conservation of Australia. The meeting was also attended by a representative of the Food and Agriculture Organization of the United Nations (FAO);

2. The Ministers agreed on a common and collaborative approach to promote responsible fishing practices and to combat illegal, unreported and unregulated (IUU) fishing in the region, in particular in the South China Sea, the Sulu-Sulawesi Seas and the Arafura-Timor Seas;

3. The Ministers reaffirmed their common understanding that the shared fish stocks in the region are a very important source of food for people in the region and are also traded to countries outside the region, and noted that overfishing and illegal fishing activities are seriously depleting the fish stocks of the region;

4. The Ministers agreed that regional cooperation among countries to promote responsible fishing practices and to combat illegal fishing is essential, particularly in order to sustain fisheries resources, ensure food security, alleviate poverty and to optimize the benefits to the people and economies in the region;

5. The Ministers also agreed there is a need to take collective action to enhance and strengthen the overall level of conservation and management, and to work towards preventing, deterring and eliminating IUU fishing in the region, to ensure sustainable use of fisheries resources in the areas of the South China Sea, the Sulu-Sulawesi Seas and the Arafura-Timor Seas;

6. The Ministers emphasized that a number of existing international instruments on promoting long-term sustainable fisheries should be considered when implementing responsible fishing practices, including the 1982 United Nations Convention on the Law of the Sea, the United Nations Fish Stocks Agreement, the FAO Compliance Agreement, the FAO Code of Conduct for Responsible Fisheries, and a number of FAO international plans of action;

7. The Ministers welcomed the progress achieved in the development of a Regional Plan of Action to Promote Responsible Fishing Practices including Combating IUU Fishing in the Region (RPOA) as a regional commitment to conserve and manage fisheries resources and the environment in the areas of the

South China Sea, Sulu-Sulawesi Seas and Arafura-Timor Seas (see enclosure). In this regard, the Ministers endorsed the RPOA;

8. The Ministers agreed, with a view to fostering the ongoing efforts and the development of the cooperative arrangements embodied in the RPOA, to establish a Coordination Committee that will monitor and review the effective implementation of the measures of the RPOA;

9. The Ministers further recognized the management expertise and technical capacity that has been developed by regional and multilateral organizations, such as: FAO; FAO/Asia-Pacific Fishery Commission; ASEAN Fisheries Working Group; Indian Ocean Tuna Commission; Western and Central Pacific Fisheries Commission; Commission for the Conservation of Southern Bluefin Tuna; INFOFISH; Southeast Asian Fisheries Development Centre; and WorldFish Centre, and further acknowledged the important roles of those organizations in strengthening fisheries management and conservation in the region. The Ministers agreed that continued support and participation in those organizations is important. The Ministers further agreed to encourage those organizations to provide assistance to the implementation of conservation and management measures in the region;

10. The Ministers expressed appreciation to the Government of Indonesia and the Government of Australia for promoting this initiative, including their hosting of the regional Senior Official Meetings (SOMs) and the Regional Ministerial Meeting. The SOMs were held in Jakarta on 29-30 November 2006, in Canberra on 22-23 March 2007 and in Bali, Indonesia on 2-3 May 2007. The SOMs were attended by: Australia, Brunei Darussalam, Cambodia, Indonesia, Japan, Malaysia, Papua New Guinea, the People's Republic of China, the Philippines, Singapore, Thailand, Timor-Leste and Viet Nam. The SOMs were also attended by representatives of FAO and INFOFISH.

Enclosure

Regional Plan of Action (RPOA) to Promote Responsible Fishing Practices including Combating IUU Fishing in the Region[1]

Contents

Current resource and management situation in the region 6
Implementation of international and regional instruments 6
Role of regional and multilateral organisations 6
Coastal State responsibilities 7
Flag State responsibilities 8
Port State measures 8
Regional market measures 8
Regional capacity building 9
Strengthening monitoring, control and surveillance (MCS) systems 9
Transhipment at sea 10
Implementation 10

[1] Republic of Indonesia, Australia, Brunei Darussalam, Cambodia, Malaysia, Papua New Guinea, the Philippines, Singapore, Thailand, Timor-Leste and Viet Nam.

Regional Plan of Action (RPOA) to Promote Responsible Fishing Practices including Combating IUU Fishing in the Region

Introduction

1. Fishing activity makes an important contribution to the food security and economic well-being of the region. However, increases in overexploitation and illegal fishing practices, have hastened the depletion of many fish stocks. For this reason, fishery resources must be managed sustainably, and responsible fishing practices need to be promoted.

2. Regional cooperation is critical for the long-term sustainable protection of the living marine resource and the marine environment. Whilst some of the root causes of the depletion of fisheries resources can be addressed at the national level, many can only be successfully addressed through regional action. This is particularly the case in the areas with interdependent marine ecosystems, adjoining maritime boundaries and shared fish stocks.

Objective and framework

3. The objective of this RPOA is to enhance and strengthen the overall level of fisheries management in the region, in order to sustain fisheries resources and the marine environment, and to optimise the benefit of adopting responsible fishing practices. The actions cover conservation of fisheries resources and their environment, managing fishing capacity, and combating illegal, unreported and unregulated (IUU) fishing in the areas of the South China Sea, Sulu-Sulawesi Seas (Celebes Sea) and the Arafura-Timor Seas.

4. This RPOA is a voluntary instrument and takes its core principles from already established international fisheries instruments for promoting responsible fishing practices, including the 1982 'United Nations Convention on the Law of the Sea' (UNCLOS), in particular Articles 61 through 64, 116-119 and 123, the 'United Nations Fish Stocks Agreement' (UNFSA), the Food and Agriculture Organisation (FAO) 'Compliance Agreement' and the FAO 'Code of Conduct for Responsible Fisheries'. The RPOA is consistent with existing treaties, agreements and arrangements and all other plans and programmes relevant to the sustainable management of the region's living marine resources.

5. This RPOA also draws upon the FAO International Plan of Actions, (IPOA) for the Conservation and Management of Sharks', the 'IPOA for the Management of Fishing Capacity', and the 'IPOA to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing', the 'IPOA for Reducing the Incidental Catch of Seabirds in Longline Fisheries ', which contain internationally agreed measures, applicable to national and regional plans to promote responsible fishing practices and, more recently, the FAO 'Model Scheme on Port State Measures to Combat IUU Fishing'.

Action Plan

Current resource and management situation in the region

1 The RPOA notes and affirms that the shared fish stocks are a very important source of food for people in the region, utilised by countries in the region and also traded both in and outside the region. Both overfishing and illegal fishing are seriously depleting the region's fish stocks. In this regard, the promotion of responsible fishing practices, and prevention, deterrence and elimination of illegal fishing are essential to ensure food security and poverty alleviation in the region and countries in the region should:

1.1 work together on compiling an overview of artisanal and industrial fishing, the current status of fish stocks, trade flows and markets.

Implementation of international and regional instruments

2 International instruments contain structures and measures upon which to build long term sustainable fisheries. The key global instruments that countries should consider when implementing responsible fishing practices include the 1982 'United Nations Convention on the Law of the Sea' (UNCLOS), the 'United Nations Fish Stocks Agreement' (UNFSA), the FAO 'Compliance Agreement', the FAO 'Code of Conduct for Responsible Fisheries', the 'International Plan of Action (IPOA) to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing', the 'IPOA for Reducing Incidental Catch of Seabirds in Longline Fisheries', the 'IPOA for the Conservation and Management of Sharks' and the 'IPOA for the Management of Fishing Capacity'. Relevant regional instruments include the Western and Central Pacific Fisheries Convention (WCPFC) and the Agreement Establishing the Indian Ocean Tuna Commission (IOTC). To support these measures, Countries in the region are encouraged to:

2.1 work toward ratification, accession, and/or acceptance and full implementation, of UNCLOS and UNFSA;

2.2 work towards ratification and/or acceptance of regional fisheries management instruments, where appropriate; and

2.3 work toward acceptance and full implementation of relevant regional and multilateral arrangements, where appropriate.

Role of regional and multilateral organisations

3 Implementing responsible fishing practices and combating IUU fishing are issues for the whole region. Articles 63, 64 and 116-119 of the UNCLOS requires countries to cooperate in the conservation and management of shared stocks and highly migratory species. The management expertise and technical capacity built up over the years by regional organisations should be harnessed to assist with the problems of the region.

3.1 Countries should work closely and collaboratively with regional organisations to develop conservation and management measures for fish stocks to promote optimum utilisation.

4 Countries acknowledge the important roles of regional organisations in strengthening fisheries management and conservation in the region including the FAO/APFIC, WCPFC, IOTC, the Asia-Pacific Economic Cooperation (APEC), ASEAN, INFOFISH, the South East Asian Fisheries Development Center (SEAFDEC), and WorldFish Center. The measures promoted by these organisations which may be applicable to this RPOA should be supported by all participating countries where relevant.

4.1 Countries should encourage relevant regional organisations to provide assistance in technical support and development of guidelines for conservation and fisheries management, capacity building, sharing data and information on fisheries and trade, and strengthening networking for the purpose of enhancing participation and ensuring implementation of conservation and management measures in the region.

Coastal State responsibilities

5 The collection, management and availability of accurate and timely information are essential in managing fishery resources and combating illegal fishing. Accurate data on the number of fishing vessels and fishing activity is required to provide for responsible fishing, hence the importance of maintaining comprehensive and up-to-date vessel registers and catch and effort information by all States, both coastal and flag. To help address this concern, countries in the region should:

5.1 work together to improve their data collection systems and to share information about vessels, fishing effort, catch levels, fish landings and sales of fish and fish products, as appropriate, and;

5.2 work to develop a regional approach to identify, compile and exchange information on any vessel used or intended for use for the purpose of fishing including support ships, carrier vessels and any other vessels directly involved in such fishing operations in the region on straddling and migratory stocks and across national jurisdictions.

6 Control of fishing capacity and fishing effort are fundamental elements of fisheries management. When the capacity of fishing fleets to harvest a resource exceeds the sustainable level, it results in unsustainable fishing activity and has the potential to 'spill-over' into illegal fishing activity. This RPOA acknowledges that countries should manage the fishing capacity of their fleets by:

6.1 assessing the status of their fishery resources and fishing fleet capacity;

6.2 introducing management measures to help prevent fishing capacity from exceeding levels that result in harvest rates that impede the ability of fish stocks to reproduce sustainably over the longer term;

6.3 undertaking planning to reduce over-capacity without shifting that capacity to other fisheries whose resources may be already fished at the maximum sustainable rate or above that rate, taking into consideration potential socio-economic impacts;

6.4 cooperating to assess, conserve and manage fishery resources where they straddle national boundaries or occur both within EEZs and in an area beyond and adjacent to the EEZ;

6.5 undertaking to develop and implement national plans of action to accelerate their efforts to reduce over capacity and eliminate illegal fishing activity where these issues are known to occur;

6.6 working on the collection, management and sharing of information on fisheries management, and the management of fishing capacity; and

6.7 respecting traditional, artisanal and small-scale fisheries and providing assistance with the management of these fisheries resources.

Flag State responsibilities

7 Coastal States through their flag State responsibilities in the region are at the forefront in implementing sustainable fishing practices and combating illegal fishing. To address this need:

7.1 all coastal States, relevant flag States and fishing entities operating in the region should actively cooperate in ensuring that fishing vessels entitled to fly their flags do not undermine the effectiveness of conservation and management measures, including engagement in or supporting illegal fishing.

Port State measures

8 Port States play a key role in combating illegal and unreported fishing in the region, given the need to land catch and support fishing activities. In this regard, regional countries and fishing entities need to develop measures to regulate fishing vessels accessing their ports for transhipping and/or landing catch and collect and exchange relevant data. To address this need, countries should consider:

8.1 adopting port State measures, where appropriate, based on the FAO 'Model Scheme on Port State Measures to Combat IUU Fishing.[2]

Regional market measures

9 In order to minimise unreported and illegal catches, countries should collaborate to implement regional market measures to identify and to track fish catches at all points in the marketing chain in a consistent way with existing international trade laws.

9.1 As a priority, countries in the region should standardise catch and landing documentation throughout the region and implement catch documentation or trade certification schemes for high value product.

9.2 In addition, countries should work with organisations such as INFOFISH to produce regular and timely market reports allowing trade flows to be analysed.

[2] Noting recent developments in the FAO to negotiate a binding international agreement on Port State measures, the Parties to the RPOA agreed to consider the provision of the FAO document once it is completed

9.3 Countries should check trade discrepancies regarding export of fish and fish product and take appropriate action and, as a minimum, report these discrepancies to the flag State.

Regional capacity building

10 Capacity building in all aspects of fisheries management must be encouraged. Countries are aware that a fully effective system requires technically competent implementation and operation. Technical and administrative staff require access to both formal and on-the-job training to build the requisite experience and competence in matters such as fisheries resource assessments, introduction of monitoring, control and surveillance (MCS) measures and development of fish product tracking systems. To build these capacities, countries should:

10.1 continue developing the appropriate core competencies for fisheries research, management and compliance, including MCS systems;

10.2 either individually or jointly, seek technical and financial assistance from relevant international development agencies and donors as well as other countries in the region; and

10.3 ensure that flag States from outside the region that operate in the region be urged to cooperate with, and assist technically and financially, those countries in the region in whose waters they conduct fishing operations.

Strengthening monitoring, control and surveillance (MCS) systems

11 An MCS system, at both a national and regional level, supports and underpins a robust fisheries management regime. A strong enforcement network can share data and information on enforcement strategies and provide advice and capacity building. To better coordinate efforts against illegal activity, countries should develop suitable and relevant inter-agency arrangements to develop their networks to quickly share information such as locations, names of vessels, ports used (home and/or unloading port) and species targeted, and other information as appropriate. To develop these capacities, countries should:

11.1 enter into appropriate sub-regional MCS arrangements to promote the elimination of IUU fishing within the region;

11.2 develop a regional MCS network to promote the sharing of information and to coordinate regional activities to support the promotion of responsible fishing practices. Where possible, also participate in the work of the International MCS Network;

11.3 promote knowledge and understanding within their fishing industries about MCS activities to enhance sustainable fisheries management and to help combat IUU fishing; and

11.4 develop, as appropriate, observer programmes including the requirement for industry to adhere to inspection regimes and carry observers on board when required.

Transhipment at sea

12 Transhipment outside the territorial sea should be regulated to prevent illegal fishers from using it to launder their catches. Stronger monitoring, control and surveillance of both fishing and carrier vessels is a priority. To implement this, countries should:

12.1 monitor and control the transhipment of fisheries resources; and

12.2 establish control measures such as vessel registers, mandatory notification of the intention to tranship and the application of vessel monitoring systems.

Implementation

13 Countries agree to support the ongoing development of the cooperative arrangements embodied in this RPOA. The effective implementation of the RPOA will be reviewed as determined by a Coordination Committee to be comprised of officials from each participating country and communicated to the FAO's Committee on Fisheries and other regional bodies as appropriate.